

US BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re: Henry D. Goldman and Cheryl E. Goldman
Debtors

Chapter 7
Case No. 1:12-bk-20059

**EX-PARTE APPLICATION TO REOPEN CLOSED CASE UNDER 11 U.S.C. §
350(b)**

To the Honorable Judge Hillman:

Debtors/Applicants Henry D. Goldman and Cheryl E. Goldman herein apply to have their case reopened and respectfully represent:

1. On **12/31/2012**, Applicant filed a Petition for Relief under Chapter 7 of Title 11 of the United States Code. On 04/05/2013, said Debtors received a discharge, and Debtors case was closed.
2. Applicants seek to reopen their case in order to file:
 - a. SECOND MOTION TO AVOID JUDICIAL LIEN
 - b. COMPLAINT TO DETERMINE DISCHARGEABILITY OF STUDENT LOAN
3. Attached to this application are copies of the above MOTION and COMPLAINT that Applicant will immediately file upon reopening of this case.
4. Reopening their case by ex-parte application for the purpose of filing MOTION TO AVOID JUDICIAL LIEN and COMPLAINT TO DETERMINE DISCHARGEABILITY OF A STUDENT LOAN is authorized under 11 U.S.C. § 350(b)

5. WHEREFORE Applicant prays that the above-entitled case be reopened for the purpose of permitting Applicant to file MOTION TO AVOID JUDICIAL LIEN and COMPLAINT TO DETERMINE DISCHARGEABILITY OF A STUDENT LOAN.

Dated: May 30, 2013

/s/ Henry D Goldman
/s/ Cheryl E Goldman
Debtor s

/s/ Steven Sroczynski
Steven Sroczynski, BBO #680387
Attorney for Debtors
Thomas F. Williams & Associates, P.C.
21 McGrath Highway Suite 501
Quincy, MA 02169
(617) 847-4200 Fax: (617) 328-8504
ssroczynski@lawofficetwilliams.com

US BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re: Henry D. Goldman and Cheryl E. Goldman
Debtor s

Chapter 7
Case No. 1:12-bk-20059

SECOND MOTION TO AVOID JUDICIAL LIEN

Debtors commenced this case on **12/31/2012** by filing a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code.

Pursuant to 28 U.S.C. § 1334, this court has jurisdiction over this motion pursuant to 11 U.S.C. § 522(f) to avoid and cancel a judicial lien held by **Midland Funding LLC** on real property used as the debtor's residence.

On **10/02/2012**, creditor recorded a judicial lien against debtors' residence at: **33 Old Country Way, Weymouth, MA 02188 (Book 30515 Page 575-576 Norfolk County Registry of Deeds Dedham, MA) (attached as Exhibit A)**

Debtors state the following in compliance with the provisions of MLBR 4003-1:

- (1) The holder of the judicial lien is **Midland Funding LLC** located at **8875 Aero Drive, Suite 200, San Diego CA 92123** (represented by Kenneth C Wilson Esq, Lustig Glaser & Wilson PC, PO Box 549287, Waltham MA 02454-9287);
- (2) The judicial lien was granted on **09/25/2012** by **Quincy District Court, One Dennis Ryan Pkwy, Quincy MA 02169**;
- (3) The lien is held in the amount of **\$13,417.99**;

(4) Holders of other liens on the property, in order of priority, are:

**(A) (Mortgage): Bank of America, 450 American St. Simi Valley, CA
93065**

**(B) (Mortgage): Bank of America, 450 American St. Simi Valley, CA
93065**

(5) The amount of the other liens on the property are:

(A) \$183,921.00 (Bank of America);

(B) \$146,409.00 (Bank of America)

(Total: \$330,330.00)

(6) Debtors' homestead exemption in the amount of **\$310,900.00** under **Mass. Gen. Laws ch. 188, §§ 1 through 14 and Mass. Gen. Laws ch. 235, § 34(14)** is impaired.

(7) Debtors interest in the property is 0 (**Assessed value is \$310,900.00 minus mortgages totaling \$330,330.00**)

(8) Applying the formula under 11 U.S.C. §522(f)(2)(A):

Value of lien seeking to avoid: **\$13,417.99**

Value of all other liens: **\$330,330.00**

Amount of exemption claimed if there were no liens: **\$310,900.00**

Total: **\$654647.99**

Value that property would have in the absence of any liens: **\$310,900.00**

(9) Debtors Henry D Goldman and Cheryl E Goldman contend that the entire amount of the lien, **\$13,417.99**, is therefore voidable.

(10) Please see attached homestead for debtors Henry D Goldman and Cheryl E Goldman of 33 Old Country Way, Weymouth MA, recorded in the **Norfolk County Registry of Deeds Book 28801 Page 269 (Exhibit B)**.

Debtors further state that a homestead exemption of \$500,000 has been claimed by the debtors on Schedule C.

The debtors' interest in the property at **33 Old Country Way Weymouth, MA**, **assessed value \$310,900.00 (Exhibit C)** and encumbered by the lien has been claimed as fully exempt in the debtor's bankruptcy case.

The existence of the creditor's lien on debtors' real property impairs exemptions to which the debtors would be entitled under 11 U.S.C. § 522(b).

WHEREFORE, debtors prays for an order against **Midland Funding LLC** avoiding and canceling the judicial lien in the above-mentioned property, and for such additional or alternative relief as may be just and proper.

Dated: May 30, 2013

/s/ Henry D Goldman
/s/ Cheryl E Goldman
Debtors

/s/ Steven Sroczyński
Steven Sroczyński, BBO #680387
Attorney for Debtors
Thomas F. Williams & Associates, P.C.
21 McGrath Highway Suite 501
Quincy, MA 02169
(617) 847-4200 Fax: (617) 328-8504
ssroczyński@lawofficetwilliams.com

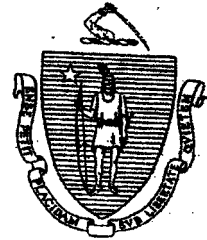
Exhibit A



Michael G. Bellotti
Sheriff

The Commonwealth of Massachusetts
County of Norfolk
SHERIFF'S DEPARTMENT
Division of Civil Process

2015 Washington Street
P.O. Box 859215
Braintree, MA 02185-9215
Tel. (781) 326-1787 • Fax (781) 326-0288



Jeffrey J. Nourse
Deputy Superintendent

Date: 10/2/2012 Time: 8:31 AM

Plaintiff: Midland Funding LLC

Plaintiff's Attorney: Lustig Glaser & Wilson, P.C.

Attorney's telephone number: (781)449-3000

Defendant: Cheryl Goldman aka Cheryl E. Goldman
Book: 7494 Page: 530

Court of Issue: QUINCY (DISTRICT) Execution # 1256CV000039

ORDER VOUCHER
grant to HENRY D. GOLDMAN and CHERYL E. GOLDMAN, husband and wife, as tenants
by the entirety
of 33 Old Country Way, Weymouth, MA with quitclaim returns

the land in Weymouth, Norfolk County, Massachusetts, with the buildings thereon,
being shown as Lot 6 on a plan of land entitled "Plan of a Portion of 'Brook
Hill' Weymouth, Mass., Arthur [REDACTED] and Sons, Inc." by
Russell H. Whiting, Civil Engineer, dated October 21, 1949, recorded with
Norfolk Registry of Deeds as Plan No. 1125 of 1949 in Book 2867, Page 522,
bounded and described as follows:

SOUTHWESTERLY by Old Country Way, as shown on said plan, seventy-nine
(79) feet;
NORTHWESTERLY by Lot 7, as shown on said plan, ninety-nine (99) feet;
NORTHEASTERLY by land now or formerly of Godfrey Dattman et al, as shown
on said plan, seventy-nine and 06/100 (79.06) feet; and
SOUTHEASTERLY by Lot 5, as shown on said plan, ninety-five and 9/10 (95.9)
feet.

Containing 7,700 square feet of land, more or less, according to said plan.

By virtue of the attached execution, the original of which is in my hands for the purpose of
taking the above described real estate, I have this day levied upon, seized and taken all right,
title and interest that the within named Judgment Debtor had in such real estate in Norfolk
County.

Attached is a true copy of this execution on the above so much of my return as relates to the
levying upon, seizure, and taking of this real estate on the execution.

Anita Kintzios
Deputy Sheriff
Jacket: 12017853

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SERVING THE COMMUNITIES OF: AVON, BELLINGHAM, BRAINTREE, BROOKLINE, CANTON, COHASSET, DEDHAM, DOVER, FOXBOROUGH, FRANKLIN, HOLBROOK, MEDFIELD, MEDWAY,
MILIS, MILTON, NEEDHAM, NORFOLK, NORWOOD, PLAINVILLE, QUINCY, RANDOLPH, SHARON, STOUGHTON, WALPOLE, WELLESLEY, WESTWOOD, WINTHROP, MA


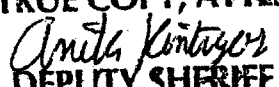
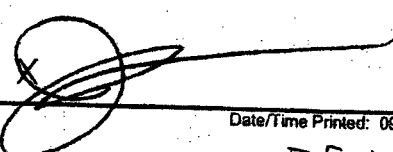
EXECUTION ON MONEY JUDGMENT		DOCKET NUMBER 1256CV000039	Trial Court of Massachusetts District Court Department	
CASE NAME Midland Funding LLC As Assignee of Chase Bank USA NA / Disney v. Cheryl Goldman				
JUDGMENT DEBTOR AGAINST WHOM EXECUTION IS ISSUED Cheryl Goldman A/K/A Cheryl E Goldman 33 Old Country Way Weymouth, MA 02188			COURT NAME & ADDRESS Quincy District Court One Dennis Ryan Pkwy Quincy, MA 02169	
A TRUE COPY, ATTEST:  DEPUTY SHERIFF DATE 10/2/12			JUDGMENT CREDITOR(S) IN WHOSE FAVOR EXECUTION IS ISSUED Midland Funding LLC As Assignee of Chase Bank USA NA / Disney	
JUDGMENT CREDITOR (OR CREDITOR'S ATTORNEY) WHO MUST ARRANGE SERVICE OF EXECUTION Kenneth C Wilson Esq. Lustig, Glaser & Wilson, P.C. PO Box 549287 Waltham, MA 02454-9287			FURTHER ORDERS OF THE COURT	
TO THE SHERIFFS OF THE SEVERAL COUNTIES OR THEIR DEPUTIES, OR (SUBJECT TO THE LIMITATIONS OF G.L. C. 41 § 92) ANY CONSTABLE OF ANY CITY OR TOWN WITHIN THE COMMONWEALTH: The judgment creditor(s) has recovered judgment against the judgment debtor named above in the amount shown below: WE COMMAND YOU , therefore, from out of the value of any real or personal property of such judgment debtor found within your territorial jurisdiction, to cause payment to be made to the judgment creditor(s) in the amount of the "Execution Total" shown below, plus additional postjudgment interest as provided by G.L. c. 235 § 8 on the "Judgment Total" shown below commencing from the "Date Execution Issued" shown below at the "Annual Postjudgment Interest Rate" shown below, and to collect your own fees, as provided by law. This Writ of Execution is valid for twenty years from the "Date Judgment Entered" shown below. It must be returned to the court, along with your return of service, within ten days after this judgment has been satisfied or discharged, or after twenty years if this judgment remains unsatisfied or undischarged.				
1. Judgment Total		13,360.85		
2. Date Judgment Entered		09/12/2012		
3. Date Execution Issued		09/25/2012		
4. Number of Days from Judgment to Execution (Line 3 - Line 2)		13		
5. Annual Postjudgment Interest Rate		.12		
6. Postjudgment Interest from Judgment to Execution (lines 1x4x5)		\$57.14		
7. Postjudgment costs (if any)		\$		
8. Credits (if any)		\$		
9. EXECUTION TOTAL (Lines 1 + 6 + 7, minus Line 8)		\$13,417.99		
LEVYING OFFICER: (a) Add daily interest from date execution issued.				
(b) Add your fees as provided by law:				
TESTE OF FIRST JUSTICE		DATE EXECUTION ISSUED		CLERK-MAGISTRATE/ASST. CLERK
WITNESS: Hon. Mark S Coven		09/25/2012		

Exhibit B

Bk 28801 Pg 269 #45348
05-13-2011 @ 03:49p

Filing Fee: \$35

The Commonwealth of

Declaration of Homestead
(General Laws Chapter 188, Sections 1 and 1A)

1. Name: HENRY D GOLDMAN and CHERYL E GOLDMAN
(add a second name only if ELDERLY (over 62 years of age) or DISABLED)

2. Property Address: 33 OLD COUNTRY WAY, WENDELL, Massachusetts.
(street number and street name) (city or town)

3. Select ONE of the following:

☒ For Recorded Land (Deed/Inheritance): The deed being recorded in 7494 - 538
(book) (page)

or _____ from _____ Probate Court.
(docket number) (county)

OR

☐ For Registered Land (Certificate of Title): As Certificate of Title _____ registered in the Land
(number)
Registration Office in _____
(book) (page)

4. Check if ELDERLY (over 62 years of age) or DISABLED:

☐ I (We), being 62 years of age or older or being physically or mentally disabled and because of such disability, am (are) not able to engage in substantial, gainful employment, which disability is evidenced by the attached award letter from the Social Security Administration or certification by a physician licensed by the Commonwealth of Massachusetts.

I (We) hereby declare that I (we) am (are) possessed of, and occupy said premises as a residence and Homestead as provided in Chapter 188, Section 1 or 1A, of the Massachusetts General Laws, as amended. I (We) expressly reserve the right to myself and my spouse, or to the survivor of us, our legal representatives, to revoke and rescind this Homestead as to ourselves and the rights of our minor, unmarried children.

To be Signed by Applicants in Front of Notary Public:

Witness my (our) hand(s) and seal this 13TH day of MAY, 20 11.

Signature(s): [Signature] Cheryl Goldman

For Use by Notary Public Only:

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.
May 13, 20 11, before me, the undersigned notary public, personally appeared

Christina Sorrucci - Henry & Cheryl Goldman
(name(s) of the document signer(s))

proved to me through satisfactory evidence of identification, which were maol
(drivers license, passport, etc.)

to be the person(s) whose name is (are) signed on the preceding or attached document in my presence.

Notary Public: Christina Sorrucci My commission expires:

RECEIVED AND RECORDED
NORFOLK COUNTY
REGISTRY OF DEEDS
DEDHAM, MA



Exhibit C



Town of Weymouth Property Card

Property Location 33 OLD COUNTRY WAY

Parcel ID 17-226-14

Current Owner

GOLDMAN HENRY D & CHERYL E TBE
33 OLD COUNTRY WAY
WEYMOUTH, MA 02188



Building 1 of 1

Additional Owners

Current Assessments (All Land and

Buildings	\$176,500
Extra Building Features	
Other	\$800
Land	\$133,600
Total	\$310,900

Land Line Valuation

Size	0.18 acres
Zone	
Assessed Value	\$133,600

Parcel Record of Ownership

Grantor	Grantee	Date	Type	Price	Book/Page
	GOLDMAN HENRY D & CHERYL E TBE	03/25/1987	QS	\$119,000	7494/530

US BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re: Henry D. Goldman and Cheryl E. Goldman
Debtors

Chapter 7
Case No. 1:12-bk-20059

HENRY D. GOLDMAN and
CHERYL E. GOLDMAN,

Plaintiffs

v.

ACS a/k/a AFFILIATED COMPUTER
SERVICES, INC. and MEFA a/k/a
MASSACHUSETTS EDUCATIONAL
FINANCING AUTHORITY

Defendants

COMPLAINT TO DETERMINE DISCHARGEABILITY OF STUDENT LOAN

1. This is a COMPLAINT to determine discharge ability of a student loan made pursuant to Federal Rule of Bankruptcy Procedure 7001(6), and 11 U.S.C. § 523(a)(8).
2. Debtor filed this case under Chapter 7 of the Bankruptcy Code on **12/31/2012**. This Court thus has jurisdiction over this action under 28 U.S.C. § 1334. This proceeding is a core proceeding.
3. Defendant ACS a/k/a AFFILIATED COMPUTER SERVICES has a given address of ACS Attn: MEFA Dept., PO Box 7052, Utica NY 13504-7052.
4. Defendant MEFA a/k/a MASSACHUSETTS EDUCATIONAL FINANCING AUTHORITY, INC. has a given address of MEFA, 160 Federal Street, 4th floor, Boston, MA 02110

5. This loan was incurred to pay expenses at **Brandeis University** for Debtors' son Joshua Goldman.
6. This loan imposes an undue hardship on the Debtors. Debtors' current monthly income, as listed on Schedule J of their petition, is \$-708.00, or *negative* seven hundred and eight dollars per month. If they have to pay back the balance of \$6474.46 on this student loan, an undue hardship will be imposed on them.
7. Based on the Debtors current income and expenses, the Debtors cannot maintain a minimal living standard and repay the loan. Joint Debtor Henry Goldman has been classified as fully disabled as of July 2010. He and his wife, Joint Debtor Cheryl Goldman, both work part time, while seeking full time work. They also struggle to make a mortgage payment every month.
8. The Debtors current financial condition is likely to continue for a significant portion of the repayment period of the loan. As stated above, Joint Debtor Henry Goldman has been classified as fully disabled. This condition is expected to continue indefinitely. Joint Debtors have been looking for full time work for some time, and will continue to do so.
9. The Debtors have made a good-faith effort to repay the debt.
10. The Debtors have filed for bankruptcy for reasons other than just to discharge their student loan.
11. The current balance on the student loan is \$6376.46, and the last 4 digits of the Account Number is 4732.

WHEREFORE, Debtors respectfully request this Honorable Court to:

- A. Determine Debtors' Student Loan Obligation to ACS to be fully discharged.
- B. Determine Debtors' Student Loan Obligation to MEFA to be fully discharged.
- C. Such other relief as this Court sees fit.

Dated: May 30, 2013

/s/ Henry D Goldman
/s/ Cheryl E Goldman
Debtors

Respectfully by their Attorney,

/s/ Steven Sroczynski
Steven Sroczynski, BBO #680387
Attorney for Debtors
Thomas F. Williams & Associates, P.C.
21 McGrath Highway Suite 501
Quincy, MA 02169
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Case No. 1:12-bk-20059

CERTIFICATE OF SERVICE

I hereby certify that on **May 30, 2013**, a copy of was served by regular United States mail or electronic mail to all interested parties, the Trustee and the following creditors:

ACS
Attn: MEFA Dept.
PO Box 7052
Utica, NY 13504-7052

MEFA
160 Federal Street, 4th Floor
Boston, MA 02110

Date: **May 30, 2013**

/s/ Steven Sroczynski
Steven Sroczynski, BBO #680387
Attorney for Debtors
Thomas F. Williams & Associates
21 McGrath Highway Suite 501
Quincy, MA 02169
(617) 847-4200
ssroczynski@lawofficetwilliams.com